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18 Fesaitu Mario

19 **UNITED STATES DISTRICT COURT**
20 **NORTHERN DISTRICT OF CALIFORNIA**

21 FESAITU MARIO, an individual, on his own
22 behalf and on behalf of all others similarly
23 situated,

24 Plaintiff,

25 SWISSPORT USA, INC., a Delaware
26 corporation, SWISSPORT CARGO SERVICES,
27 L.P., a California limited partnership,

28 Defendants.

Case No. 3:17-cv-02099-WHA

**AMENDED STIPULATION TO PROCEED
TO ARBITRATION**

Pursuant to Civil L.R.s 6-2 and 7-12, Plaintiff Fesaitu Mario ("Plaintiff"), on the one hand, and Defendants Swissport USA, Inc., and Swissport Cargo Services, L.P. ("Defendants") (Plaintiff and Defendants will be referred to as the "Parties"), by and through their respective attorneys of record, hereby stipulate and request as follows:

WHEREAS, Defendants have demanded binding arbitration of Plaintiff's individual claims;

WHEREAS, Plaintiff has decided, pursuant to his arbitration agreement with Swissport Cargo Services, L.P. ("Swissport Cargo"), to arbitrate his individual claims against Defendants;

WHEREAS, the Parties agree that nothing herein constitutes a waiver of Defendants' position or argument that Plaintiff has waived his ability to bring class, collective and/or representative claims through his arbitration agreement with Swissport Cargo;

WHEREAS, Plaintiff voluntarily agrees to waive any right to pursue class, collective, or representative claims against Defendants;

WHEREAS, Plaintiff has not received any consideration in exchange his voluntary waiver of any right to pursue class, collective, or representative claims against Defendants;

WHEREAS, Plaintiff seeks dismissal without prejudice of the putative class and collective claims alleged in the Complaint;

IT IS HEREBY STIPULATED AND AGREED by the parties that:

1. Plaintiff's individual claims against Defendants in this action shall proceed to binding arbitration pursuant to Plaintiff's arbitration agreement with Swissport Cargo;
2. Plaintiff waives any right to pursue class, collective, and/or representative claims against Defendants;
3. The Complaint shall be dismissed in its entirety without prejudice, with the parties to bear their own fees and costs in this litigation; and
4. Nothing herein constitutes a waiver of Defendants' position or argument that Plaintiff waived his ability to bring class, collective and/or representative claims through his arbitration agreement with Swissport Cargo.

1 Dated: November 7, 2017

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3 **CONSTANGY, BROOKS, SMITH &**
4 **PROPHETE, LLP**

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6 By: /s/ Sarah K. Hamilton
7 Sarah K. Hamilton
8 Attorneys for Defendants
9 Swissport USA, Inc. and
10 Swissport Cargo Services, L.P.

11 Dated: November 7, 2017

12 **BRADLEY GROMBACHER, LLP**

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14 By: /s/ Kiley L. Grombacher
15 Marcus J. Bradley, Esq.
16 Kiley L. Grombacher, Esq.
17 Attorneys for Plaintiff Fesaitu Mario

18 **ECF ATTESTATION**

19 I, Sarah K. Hamilton, am the ECF User whose ID and Password are being used to file this
20 document. I attest that concurrence in the filing of this document has been obtained from the
21 signatories.

22 Dated: November 7, 2017

23 **CONSTANGY, BROOKS, SMITH &**
24 **PROPHETE, LLP**

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26 By: /s/ Sarah K. Hamilton
27 Sarah K. Hamilton
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~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, AND FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

Pursuant to the stipulation of the parties and good cause appearing therefore, the Court hereby Orders:

1. Plaintiff's individual claims to binding arbitration;
2. The Complaint shall be dismissed in its entirety without prejudice, with the parties to bear their own fees and costs in this litigation;
3. All further deadlines, hearings and proceedings before this Court shall be moot.

IT IS ORDERED.

DATED: November 8, 2017.



HON. WILLIAM H. ALSUP
U.S. DISTRICT COURT JUDGE